

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

WILLIAM A. CLUMM,

Plaintiff,

vs.

Civil Action 2:08-CV-366
Judge Smith
Magistrate Judge King

JAMES MANES, et al.,

Defendants.

REPORT AND RECOMMENDATION

This matter is before the Court on the initial screen of the complaint required by 28 U.S.C. §§1915(e), 1915A. For the reasons that follow, the Court **RECOMMENDS** that the action be dismissed for lack of subject matter jurisdiction.

Plaintiff, an Ohio prisoner, brings this action for libel, slander and other torts under Ohio law. He expressly invokes this Court's diversity jurisdiction, 28 U.S.C. §1332. Named as defendants are individuals and entities identified as residents of New York and Ohio.

In order to properly invoke diversity jurisdiction under 28 U.S.C. §1332, diversity of citizenship must be complete between all of the plaintiffs and all of the defendants. See *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267, 2 L.Ed. 435 (1806). Plaintiff, an Ohio resident, has named Ohio residents as defendants in the action. Under these circumstances, complete diversity is lacking and this Court is without jurisdiction over plaintiff's claims.

It is therefore **RECOMMENDED** that the action be dismissed, without prejudice, for lack of subject matter jurisdiction.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within ten (10) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within ten (10) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

April 22, 2008

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge